

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

SUIT NO. 2459 OF 1985

Hotel Airlines International	.. Plaintiff
Vs.	
Kakad Investments & Ors.	.. Defendants

Mr. S.S. Deshmukh i/b Pravin B. Gole for the Plaintiff.
Mr. Swanand Chougule for Defendant No.1.
Mr. Dilip R. Talekar, Insolvency Registrar present in Court.

**CORAM : K.R. SHRIRAM, J.
DATED : 7TH OCTOBER, 2016.**

P.C.

1 The Suit came to be settled by consent of the parties on 8th October 1985. Consent terms were drawn. A consent decree in terms of the consent terms is passed. The consent decree states that it is to operate as a conveyance in favour of the Plaintiff.

2 The Consent Decree becomes a conveyance as defined under Section 2(g) (iii) of the Bombay Stamp Act, 1958, which runs thus :

“S.2(g) “Conveyance” includes,--

(i) ...

(ii) ...

(iii) Every decree or final order of any Civil Court.

(iv) ...

By which property, whether movable or immovable, or any estate or interest in any property is transferred to, or vested in, any other person, inter vivos, and which is not otherwise specifically provided for by Schedule I”.

Hence a consent decree passed pursuant to Consent Terms operates as a decree of the court. The said definition came into force on 10th December 1985, pursuant to the substitution of the definition for the previous definition by the Amendment Act of 1985.

3 Upon the consent terms operating as a decree of the court and being termed a conveyance in favour of the Plaintiff, the Plaintiff derived title to the suit property. The Plaintiff as the owner of the suit property, acquired all the rights of ownership. The utilization and enjoyment of those rights require the original document of conveyance to be in the possession of the Plaintiff and the Plaintiff to be able to use the document to show his title.

4 This becomes essential more specially when the Plaintiff is required to transfer his title either by way of mortgage, sale, lease, etc, when the original document of title would be required to be handed over to the transferee.

5 The Plaintiff has got the consent decree operating as conveyance registered and stamped in accordance with Law. The Plaintiff is required to be returned the original document of title.

6 All original documents produced by parties are, as a matter of practice returned to them after the final judgment is pronounced and the suit is disposed of. There is, therefore, no reason not to return the original document of title to the Plaintiff.

7 Further, this issue has been dealt with by a decision of this Court in *K. Raheja Corporation Private Limited Vs Mrs Goolestan Peter Coelho and Others*, where it was directed that a consent decree be handed over to the Plaintiff in that case.

8 I also find support of an order dated 23.12.2015 passed in Suit No.2225 of 1993.

9 In a matter such as this, therefore, the Plaintiff would be entitled to the return of the original consent decree. The office of the Prothonotary and Senior Master shall make a certified copy of the consent decree filed in the suit and operating as a conveyance to be kept on record of this suit and return the original decree to the Plaintiff within four weeks.

(K.R. SHRIRAM, J.)